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WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

IN RE: ACTOS® (PIOGLITAZONE)  
PRODUCTS LIABILITY LITIGATION

MDL No. 6:11-md-2299

JUDGE DOHERTY

This Document Applies To:

*Hymel v. Takeda Pharmaceuticals  
North America, Inc., et al*  
Civil Action No. 6:12-cv-00640

MAGISTRATE JUDGE HANNA

**RULING**

Magistrate Judge Patrick Hanna filed a Report and Recommendation [Rec. Doc. 245; MDL Rec. Doc. 6526] in the captioned matter on August 17, 2016, in which he recommended that this Court (1) grant the pending “Motion to Withdraw as Counsel of Record” [Rec. Doc. 233; MDL Rec. Doc. 6166] filed by the plaintiff’s counsel, and (2) dismiss the plaintiff’s claims without prejudice. For the reasons given below, this Court adopts the Report and Recommendation, grants the motion to withdraw, and dismisses the plaintiff’s claims without prejudice.

Plaintiff’s counsel – Michael Hingle & Associates, Inc., Michael Hingle, Bryan Pfleeger, and Julie Jochum – filed a “Motion to Withdraw as Counsel of Record” [Rec. Doc. 233; MDL Rec. Doc. 6166] on January 29, 2016. Magistrate Judge Hanna ordered plaintiff Robert Hymel and his counsel to appear in court on March 16, 2016, however, only Mr. Pfleeger and Ms. Jochum appeared. Ms. Jochum advised the Court that mail she had sent to the Mr. Hymel was returned, marked to show that Mr. Hymel is deceased, and that she had been in contact with Mr. Hymel’s son by mail. Magistrate Judge Hanna deferred ruling on the motion to withdraw, and ordered counsel for Mr. Hymel to determine whether his succession representatives wish to dismiss Mr. Hymel’s claims. [Rec. Doc. 235]

Magistrate Judge Hanna contacted Ms. Jochum on May 24, 2016, at which point Ms. Jochum advised she was still awaiting a decision by Mr. Hymel's family members. [Rec. Doc. 240] Magistrate Judge Hanna ordered Ms. Jochum to notify the court no later than June 28, 2016 whether Mr. Hymel's claims would be dismissed or not. [Rec. Doc. 240] On June 28, 2016, Ms. Jochum notified the Court that she had been unable to contact any of the plaintiff's family members, and, thus, was unaware of their intent regarding Mr. Hymel's claims. Upon request, Ms. Jochum provided Magistrate Judge Hanna with contact information for Mr. Hymel's children – Melvin J. Hymel, Delores Hymel Elliott, and Milton Adam Hymel.

On July 6, 2016, Magistrate Judge Hanna entered an order that Mr. Hymel's children were to contact the court no later than July 19, 2016 to discuss their father's claims, and that order was sent to each of the children via certified mail. [Rec. Doc. 241] The record reflects that Delores Elliott and Milton Hymel each received a copy of the order [Rec. Docs. 242, 243], but the copy sent to Melvin Hymel went unclaimed and was returned to the court. [Rec. Doc. 244] Magistrate Judge Hanna indicated that the plaintiff's children have not been in contact with the court, nor have they justified their failure to comply with the order to do so. On the basis of the above facts, Magistrate Judge Hanna recommended that (1) the "Motion to Withdraw as Counsel of Record" [Rec. Doc. 233; MDL Rec. Doc. 6166] be granted, and that (2) the plaintiff's claims be dismissed without prejudice. [Rec. Doc. 245; MDL Rec. Doc. 6526]

Magistrate Judge Hanna's Report and Recommendation was entered on August 17, 2016, and was sent to each of Mr. Hymel's children via certified mail to their last known addresses. The record reflects that Delores Elliott and Milton Hymel have received the Report and Recommendation [Rec. Docs. 246, 247], but that the copy sent to Melvin Hymel went unclaimed and was returned to the court. [Rec. Doc. 238] Considering the facts given above, and the fact

that no objections to the Report and Recommendation have been lodged in the time allotted therefor, this Court will adopt Magistrate Judge Hanna's Report and Recommendation.

IT IS HEREBY ORDERED the "Motion to Withdraw as Counsel of Record" [Rec. Doc. 233; MDL Rec. Doc. 6166] is GRANTED.

IT IS FURTHER ORDERED the claims of Robert Hymel are DISMISSED WITHOUT PREJUDICE.

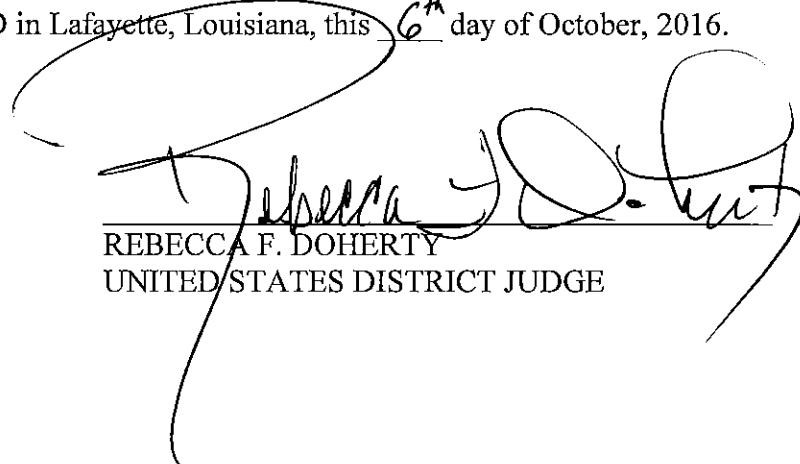
IT IS FURTHER ORDERED a copy of this Ruling be served on Mr. Hymel's children at their last known addresses via certified mail, return receipt requested:

Melvin J. Hymel  
3508 2<sup>nd</sup> Street, Lot 4  
Berwick, LA 70342

Delores Hymel Elliott  
203 Franklin Street  
Morgan City, LA 70380

Milton Adam Hymel  
329 Polk Road #67  
Mena, AR 71953

THUS DONE AND SIGNED in Lafayette, Louisiana, this 6<sup>th</sup> day of October, 2016.

  
REBECCA F. DOHERTY  
UNITED STATES DISTRICT JUDGE